



michigan league of  
conservation voters

September 27, 2012

**Testimony on SB 1238 (S-1)  
Michigan Senate  
Committee on Natural Resources, Environment and Great Lakes**

Dear Senators,

The Michigan League of Conservation Voters opposes SB 1238 (S-1), as currently written, though we do recognize and appreciate some of the changes that were made to the original bill and think that those sections of the bill have come a long way. We fear that the remaining sections of the bill, though, increase the potential to inject political partisanship into the process for selecting natural resources trust fund projects and could limit the knowledge and experience available on the trust fund board.

The most troubling section of SB 1238 stacks the natural resources trust fund with two extra members recommended jointly by the Speaker of the House and the Senate Majority Leader. The issue is not the number of board members, but the way in which they're selected. While nonpartisan selections may be possible when the two chambers are led by different parties, this process increases the chances that members recommended will be selected on a partisan basis when the chambers are dominated by one political party or the other. This runs contrary to the purpose of the trust fund board, which was to remove partisanship from the selection process for conservation projects.

Our opposition to legislative intrusion into the trust fund process stems from the circumstances surrounding the adoption of §35, originally added to the Michigan Constitution by ballot initiative in 1984. The Trust Fund, previously known as the Kammer Land Trust Fund, had been established in 1976 for the purpose of using royalties from nonrenewable resource extraction on state land to acquire and conserve recreational public land.

However, after its establishment in 1976, its funds were diverted into the general fund for other uses by the Legislature. The purpose of enshrining it in the Constitution was to prevent it from being diverted by the Legislature. The trust fund board was established within the DNR - an executive department - to firewall the Legislature from the trust fund recommendation process. The Legislature's role, as detailed in §35, is to enact its provisions and to appropriate the funds; not to recommend the projects, whether directly or indirectly.

We also question the need for term limits or a prohibition on former Natural Resources Commission members serving on the trust fund board. Term limits can limit the institutional memory of any board, and barring NRC members from serving on the board could needlessly prevent someone with experience on natural resources and conservation issues from imparting that experience to the trust fund board.

Pages 6 and 7 of the substitute are much improved from the original bill. We do question the need for prioritizing motorized uses. We have no issue with motorized recreation, but we do with making it a priority over all other uses. According to the 2008 State Forest Management Plan, there are over 3,000 miles of ORV trails in the Michigan ORV Trail/Route System. By contrast, there are 880 miles of non-motorized pathways in state forests, less than a third of the motorized-use miles. This is not to say that there are too many or too few miles of ORV trails, just that this ratio hardly suggests a need to prioritize motorized over non-motorized projects.

The Constitution itself sets out the criteria that the trust fund board should consider. Section 35 states:

The interest and earnings of the trust fund shall be expended for the acquisition of land or rights in land for recreational uses or protection of the land because of its environmental importance or its scenic beauty, for the development of public recreation facilities, and for the administration of the trust fund, which may include payments in lieu of taxes on state owned land purchased through the trust fund

If the drafters of this provision intended that motorized recreation uses be prioritized, they would have written it into this language. It does not say that, though. It simply says "for recreational uses," without specifying one or another type of use. Because SB 1238 prioritizes one specific recreational use over all others, it is inconsistent with §35.

There are important changes in the substitute bill in this section, though, which we support.

Whereas the original bill prohibited the board from recommending projects solicited for sale by the department, a local unit of government, or a land conservancy, the substitute prohibits only sales where the landowner was unwilling or was harassed or coerced. This change should aid in the department's ability to acquire land strategically in accordance with the acquisition plan it is drafting, rather than relying solely on parcels offered for sale at random.

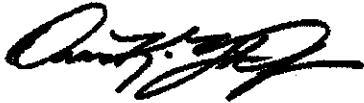
Also, whereas the original bill prohibited the board from assigning names to projects other than the legal description, the substitute allows names to be assigned which honor individuals or organizations. This change will allow citizens to be more informed about projects proposed in their areas.

While the substitute bill is greatly improved over the original, we cannot support it in its current form due to its likelihood of increasing partisanship on the trust fund board through the selection process of two additional members, of reducing the institutional memory and experience available to the trust fund board, and the prioritization of one recreational use over all others, when the data simply does not show that it is needed.

We hope that these sections can be improved as much as those which were changed by the substitute.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew YoungeDyke". The signature is stylized with a large, looped "D" and a cursive "Y".

Drew YoungeDyke  
*Policy & Communications Specialist*